

1 HONORABLE RONALD B. LEIGHTON
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UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

9 ROBERT T. KELLY and ELIZABETH
10 KELLY,

11 Plaintiffs,

12 CHASE HOME FINANCE LLC, et al.,

13 Defendants.

CASE NO. 3:13-cv-05029-RBL

ORDER AND GRIEVANCE

14 On May 23, 2013, the Court ordered Plaintiff's counsel to show cause why the case
15 should not be dismissed for failure to prosecute. Counsel had filed the suit and then failed to
16 participate in initial disclosures, failed to follow through on a promise to dismiss a party that he
17 conceded should have been dismissed, and failed to properly serve Defendants. Mr. Penfield's
18 behavior was not new. He received show cause orders for similar conduct in *Alexander v. JP*
19 *Morgan Chase Bank*, No. 12-cv- 1629-RSL (Dkt. #11) and *Alexander v. JP Morgan Chase*
20 *Bank*, No. 12-cv-1791-RAJ, both of which went unanswered.

21 A cursory review of the filings in this District disclosed two additional cases following
22 the same script: file a case on behalf of a client facing foreclosure, do nothing else, and have the
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1 case dismissed for failure to prosecute. *See Hansen v. Deutsche Bank National Trust Co.*, No.
2 12-cv-0535-JCC (Dkt. #8) and *Fagerlie v. Opus Bank*, No. 12-cv-1386-JCC (Dkt. #19).

3 In response to the Court's Order to Show Cause, Plaintiff's counsel blamed an employee
4 and a divorce for his repeated misconduct. (Counsel's Resp., Dkt. #12.) The Court then ordered
5 Plaintiff's counsel to pay a \$250 sanction and participate in the filing of a new Joint Status
6 Report within 30 days. Defendants represent that Plaintiff's counsel has *ignored* that Order.
7 (Def.'s Second Status Report, Dkt. #15.)

8 Pursuant to Local Rule 83.3(c), this Court recommends that Mr. Penfield either be
9 disbarred or suspended from practice within the Western District of Washington for contempt of
10 Court and for violations of the Standards of Professional Conduct (specifically, Washington
11 Rules of Professional Conduct 1.1; 1.3; 3.2; 8.4(j), (n)).

12 This case is **DISMISSED WITHOUT PREJUDICE** for failure to prosecute.

13 Defense counsel are hereby **ORDERED** to use reasonable means to send Plaintiffs a
14 copy of this Order directly to ensure that they are aware of the dismissal and the sanctions
15 against their attorney.

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17 Dated this 23rd day of July, 2013.

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RONALD B. LEIGHTON

20 UNITED STATES DISTRICT JUDGE
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